(18)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ.
HON'BLE SHRI D.R. DESHMUKH, J.

M.A. No. 95 OF 2006

APPELLANT (NON-APPLICANT NO.3)		National Insurance Company Limited, Branch Office, Near Head Post Office, Jagadalpur, Through : Its Divisional Manager, Divisional Office, Taha Complex, Ring Road no.2, Bilaspur (C.G.).
		Versus
RESPONDENTS (APPLICANT)	1.	Savita Bhaskar w/o Gajaluram Bhaskar, aged-40 years, R/O vill. & post Gamawada (Aampara), P.S. Bhansi, Distt. South Bastar, Dantewada (C.G.)
(NON-APPLICANT No.1)	2.	Ravishankar S/O Gajaluram Bhaskar, R/O -vill. & post-Gamawada(Aampara), P.S.-Bhansi, District-South Bastar, Dantewada (C.G.)
(NON-APPLICANT NO.2)	3.	Gajaluram Bhaskar S/O Pandu Bhaskar, R/O- vill. & post-Gamawada(Aampara), P.S.Bhansi, Distt.-South Bastar, Dantewada(C.G.).

M.A. No. 98 OF 2006

APPELLANT (NON-APPLICANT NO.3)		National Insurance Company Limited, Branch Office, Near Head Post Office, Jagadalpur, Through : Its Divisional Manager, Divisional Office, Taha Complex, Ring Road no.2, Bilaspur (C.G.).
		Versus

RESPONDENTS (APPLICANT)	1.	Shri Ramlal Bhaskar S/O Mangu Bhaskar, aged-30 years, caste-Muria, R/O vill. & post Gamawada (Aampara), P.S. Bhansi, Distt. South Bastar, Dantewada (C.G.)
(NON-APPLICANT No.1)	2.	Ravishankar S/O Gajaluram Bhaskar, R/O -vill. & post-Gamawada (Aampara), P.S.-Bhansi, District-South Bastar, Dantewada (C.G.)
(NON-APPLICANT NO.2)	3.	Gajaluram Bhaskar S/O Pandu Bhaskar, R/O- vill. & post-Gamawada (Aampara), P.S.Bhansi, Distt.- South Bastar, Dantewada(C.G.).

M.A. No. 100 OF 2006

APPELLANT (NON-APPLICANT NO.3)		National Insurance Company Limited, Branch Office, Near Head Post Office, Jagadalpur, Through : Its Divisional Manager, Divisional Office, Taha Complex, Ring Road no.2, Bilaspur (C.G.).

Versus

RESPONDENTS (APPLICANTS)	1.	Jogi Bhaskar S/O Late Sonuram Bhaskar, aged-29
	2.	Anil Bhaskar S/O Late Sonuram Bhaskar, aged-10 years
	3.	Rajan S/O Late Sonuram Bhaskar aged-7 years
	4.	Gobar Singh Bhaskar S/O Late Sonuram Bhaskar aged- 5 years
	5.	Simnar S/O Late Sonuram Bhaskar aged- 9 years
	6.	Pandru S/O Masa Bhaskar aged-51 years
	7.	Budhari W/O Pandaru Bhaskar aged-46 years

Respondent No.2 to 5 are minor, through ad litem guardian-Mother Smt. Jogi Bhaskar-Respondent No.1

All are R/O vill. & post- Gamawada (Aampara), P.S.-Bhansi, District-South Bastar, Dantewada (C.G.)

(NON-APPLICANT NO.1) 8. Ravishankar S/O Gajaluram Bhaskar, R/O- vill. & post-Gamawada (Aampara), P.S. Bhansi, Distt.- South Bastar, Dantewada(C.G.)

(NON-APPLICANT NO.2) 9. Gajaluram Bhaskar S/O Pandu Bhaskar, R/O- vill. & post-Gamawada(Aampara), P.S.Bhansi, Distt.-South Bastar, Dantewada (C.G.).

M.A. No. 101 OF 2006

APPELLANT (NON-APPLICANT NO.3) National Insurance Company Limited, Branch Office, Near Head Post Office, Jagadalpur, Through : Its Divisional Manager, Divisional Office, Taha Complex, Ring Road no.2, Bilaspur (C.G.).

Versus

RESPONDENTS (APPLICANT) 1. Joga Bhaskar S/o Durga Bhaskar, aged-25 years, R/O vill. & post Gamawada (Aampara), P.S. Bhansi, Distt. South Bastar, Dantewada (C.G.)

(NON-APPLICANT No.1) 2. Ravishankar S/O Gajaluram Bhaskar, R/O -vill. & post-Gamawada (Aampara), P.S.-Bhansi, District-South Bastar, Dantewada (C.G.)

(NON-APPLICANT NO.2)	3.	Gajaluram Bhaskar S/O Pandu Bhaskar, R/O- vill. & post-Gamawada(Aampara), P.S.Bhansi, Distt.-South Bastar, Dantewada(C.G.).

M.A. No. 99 OF 2006

APPELLANT (NON-APPLICANT NO.3)		National Insurance Company Limited, Branch Office, Near Head Post Office, Jagadalpur, Through : Its Divisional Manager, Divisional Office, Taha Complex, Ring Road no.2, Bilaspur (C.G.).

Versus

RESPONDENTS (APPLICANT)	1.	Pandaru Bhaskar S/O Masa Bhaskar, aged-51 years, R/O vill. & post Gamawada (Jampara), P.S. Bhansi, Distt. South Bastar, Dantewada (C.G.)
(NON-APPLICANT No.1)	2.	Ravishankar S/O Gajaluram Bhaskar, R/O -vill. & post-Gamawada(Aampara), P.S.-Bhansi, District-South Bastar, Dantewada (C.G.)
(NON-APPLICANT NO.2)	3.	Gajaluram Bhaskar S/O Pandu Bhaskar, R/O- vill. & post-Gamawada (Aampara), P.S.Bhansi, Distt.-South Bastar, Dantewada (C.G.).

M.A. No. 102 OF 2006

APPELLANT (NON-APPLICANT NO.3)	National Insurance Company Limited, Branch Office, Near Head Post Office, Jagadalpur, Through : Its Divisional Manager, Divisional Office, Taha Complex, Ring Road no.2, Bilaspur (C.G.).

Versus

RESPONDENTS (APPLICANT)	1.	Nando Kunjami S/O Sewa Kunjami, aged-50 years, R/O vill. & post Gamawada (Jampara), P.S. Bhansi, Distt. South Bastar, Dantewada (C.G.)
(NON-APPLICANT No.1)	2.	Ravishankar S/O Gajaluram Bhaskar, R/O -vill. & post-Gamawada(Aampara), P.S.-Bhansi, District-South Bastar, Dantewada (C.G.)
(NON-APPLICANT NO.2)	3.	Gajaluram Bhaskar S/O Pandu Bhaskar, R/O- vill. & post-Gamawada (Aampara), P.S.Bhansi, Distt.-South Bastar, Dantewada (C.G.).

Present : Shri Dashrath Gupta, learned counsel for the appellant

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ORAL ORDER
(Passed on 20th April, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ.

All these appeals arise out of the same accident. The contentions urged before the Court in all these appeals are also common. Hence, we clubbed all these appeals, heard them together and they are being disposed of by this common order.

2. Learned counsel for the Insurance Company which is appellant in all these appeals would contend that the driver of the motor vehicle involved in the accident did not have valid and effective license to drive the motor vehicle involved in the accident and he had only driving license to drive light motor vehicle.

3. We have perused the impugned awards. Though the above contention was taken in the written statement filed by the Insurance Company before the MACT, the burden cast on it was not satisfactorily

discharged in the sense that the Insurance Company has utterly failed to establish that the driver of the motor vehicle involved in the accident was guilty of any actionable negligence due to which the accident took place. Secondly, learned counsel for the Insurance Company is that in M.A. No: 95/2006, wrong multiplier was applied. It is true that in that appeal, the claimant is the mother of the deceased and she was aged about 40 years on the date of accident. In that view of the matter, strictly speaking, the MACT ought to have applied multiplier 16 for assessing loss of dependency, but, it has applied multiplier of 17. Only on that ground, we are not inclined to interfere with the award for the reason that the annual income of the deceased was taken at notional rate of Rs. 15,000/- for assessing loss of dependency which is on lower side. Thirdly, it was meekly contended that in terms of the policy, the insured could carry only four coolies in the vehicle, whereas, at the time of the accident it was found that there were six coolies. This contention was raised before the MACT and the MACT did not accept this contention as tenable on the ground that the policy produced before the MACT does not contain any stipulation that the insured vehicle should not carry more than 4 persons. We are satisfied that what is awarded, in the facts and circumstances of the case, is just and reasonable compensation within the contemplation of the Motor Vehicle Act 1998. No grounds are made out to entertain these appeals. Therefore, all these appeals are dismissed.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge